

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

13 CV 8710

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XL SPECIALTY INSURANCE COMPANY
as subrogee of JOHN M. ULLMANN, INC.

Case No.

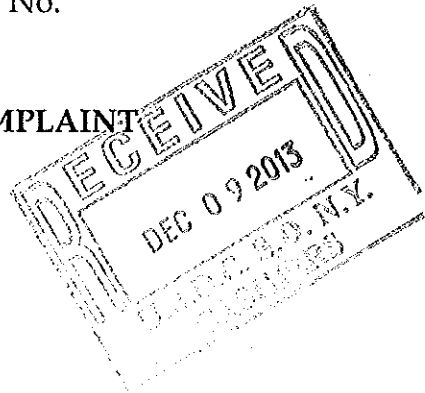
Plaintiff,

COMPLAINT

-against-

MALCA-AMIT USA, LLC

Defendant.
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Plaintiff XL Specialty Insurance Company as subrogee of John M. Ullmann, Inc. by and through its attorneys, Rosner Nocera & Ragone, LLP, as and for its Complaint against defendant Malca-Amit USA, LLC alleges upon information and belief as follows:

INTRODUCTION

1. This is an action for breach of a contract of carriage, bailment and duty of a common carrier by motor truck for damage to a jewelry and antiques, and unique objects of art (hereinafter the "Cargo") which was damaged in transit en route from New York, New York to Miami, Florida on or about January 29, 2013.

2. This action involves interstate transportation by motor carrier under 49 U.S.C. Section 14706 (the "Carmack Amendment").

PARTIES

3. At all times hereinafter mentioned, plaintiff XL Specialty Insurance Company (hereinafter "XL") was and still is a Connecticut corporation authorized to transact the business of insurance in the State of New York, maintaining offices for the

transaction of business at, One World Financial Center, 200 Liberty Street, 22nd Floor, New York, New York 10281 (hereinafter "XL").

4. At all times hereinafter mentioned, plaintiff's subrogor John M. Ullmann, Inc. (hereinafter "Ullmann") was and still is a New York corporation doing business as a dealer of jewelry, antiques and unique works of art maintaining offices for the transaction of business at 589 Fifth Avenue, New York, New York 10017.

5. Upon information and belief, at all times hereinafter mentioned, defendant Malca-Amit USA, LLC (hereinafter "Malca-Amit"), was and still is a foreign limited liability company duly authorized to do business in the state of New York maintaining offices for the transaction of business at 580 Fifth Avenue, Lobby 1, New York, New York 10036.

6. Malca Amit, among other things, specializes in the transport and security of precious assets and valuable cargo.

7. Malca Amit was familiar with Ullmann's business and was aware of the types of objects it accepted for transit on Ullmann's behalf.

8. Malca-Amit is registered with the United States Department of Transportation as an interstate carrier and operates as a motor truck carrier of general freight.

9. Malca-Amit is subject to the personal jurisdiction of this Honorable Court by virtue of transacting business within and through the State of New York.

JURISDICTION

10. This action involves interstate transportation by motor truck and seeks damage in excess of \$10,000.00. This Honorable Court has jurisdiction pursuant to 49 U.S.C. Section 14706 (the "Carmack Amendment").

BACKGROUND

11. In reliance upon Malca-Amit's expertise in the handling and shipment of jewelry and precious cargo, on or about January 29, 2013 Ullmann entered into an agreement with Malca-Amit (Bill of Lading Nos. 10032770, 10006453, 10032771, 10006454) to transport four packages containing the Cargo from New York, New York to Miami, Florida.

12. Pursuant to its agreement with Malca-Amit, Ullmann paid additional monies and declared a value of \$300,000.00 for each of the four packages (\$1,200,000 total).

AS AND FOR A FIRST CAUSE OF ACTION

13. Plaintiffs repeats, reiterate and reallege each and every allegation contained in paragraphs "1" through "12" of the Complaint with the same force and effect as if fully set forth herein at length.

14. Defendant Malca-Amit as a motor carrier of merchandise by motor truck for hire and pursuant to its bill of lading, had a duty to transport, handle, carry, keep, care for, discharge and deliver the Cargo in good order and condition.

15. Defendant Malca-Amit breached its contract, bailment, the bills of lading and duties as a motor carrier of merchandise by motor truck for hire by, among other things, failing to deliver the Cargo in like condition as received and in failing to protect the Cargo from damage.

16. As a direct and proximate result of defendant Malca-Amit's breach of its contracts of carriage, bailment, bills of lading, and duties as motor carriers of merchandise by motor truck, Ullmann sustained damages in the sum of \$49,950.00.

17. Pursuant to a policy of insurance then in force and effect, plaintiff XL reimbursed its subrogor, Ullmann, for the above loss and thereby became subrogated to all of the rights, remedies, claims, demands and causes of action possessed by Ullmann, including those asserted against the defendant herein.

18. By reason of the foregoing, defendant Malca-Amit is indebted to plaintiff XL in the sum of \$49,950.00, as a result of the damage to the Cargo, plus accrued interest thereon from January 29, 2003.

WHEREFORE, plaintiff XL Specialty Insurance Company as subrogee of John Ullmann, Inc. demands judgment against defendant Malca-Amit USA LLC in the sum of \$49,950.00, accrued interest thereon from January 29, 2013, the costs, expenses, and

attorneys fees of this action, and for such other and further relief as this court may deem just and proper.

Dated: New York, New York
December 3, 2013

ROSNER NOCERA & RAGONE, LLP

By:


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